

### **REMARKS**

Claims 1-54 are pending in the application. Claims 6-9, 15 and 16 are withdrawn from consideration. Claims 17-28, 30, 32, 34, 36, 38, 40, 42, 44, 46, 48, 50, 52 and 54 are allowed.

Claim 1 section (e) has been deleted and section (f) amended to recite 95% identity. Support for the amendment to section (f) can be found in the Specification on page 8, line 15.

No new matter has been added.

#### **Rejections Under 35 USC § 112, First Paragraph**

##### *Enablement*

The Examiner has rejected claims 1-5, 10-14, 29, 31, 33, 35, 37, 39, 41, 43, 45, 47, 49, 51, 53 and 55 for lack of enablement. The Examiner's comments appear on pages 2-4 of the Office Action and are not repeated here. The rejections, however, can essentially be summarized as being directed to section (e) of claim 1. The Examiner contends that the Specification does not provide guidance for making or using polypeptides that only comprise a small portion of SEQ ID NO:2, i.e. those having 95% identity to the first 100 amino acids, and thus it would require undue experimentation for skilled artisan to practice the invention. Applicants respectively traverse.

Applicants do not agree with the Examiner, but solely to expedite prosecution Applicants have amended claim 1 by deleting section (e) and amending section (f), which now becomes new section (e), to recite 95% identity. Therefore, Applicants respectfully request reconsideration and removal of the rejection.

##### *Written Description*

The Examiner has rejected claims 1-5, 10-14, 29, 31, 33, 35, 37, 39, 41, 43, 45, 47, 49, 51, 53 and 55 for lack of Written Description. The Examiner's rejections can again be

summarized as being essentially directed to section (e) of claim 1. The Examiner contends that the Specification does not disclose that only the first 100 amino acids are crucial to branching enzyme function and does not describe which features of the first 100 amino acids are critical for the invention. Applicants respectfully traverse.

Once more, Applicants do not agree with the Examiner, yet solely in the interest of expediting prosecution of the application, Applicants have deleted section (e) and have amended section (f), which now becomes new section (e), to recite 95% identity. Therefore, Applicants respectfully request reconsideration and removal of the rejection.

#### Conclusion

Accordingly, reconsideration of the rejections and allowance of the claims are respectfully requested. In the event that the Amendment does not place the present application into condition for allowance, entry thereof is respectfully requested as placing the present application into a better condition for appeal.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Susan W. Gorman, Ph.D. (Reg. No. 47,604) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

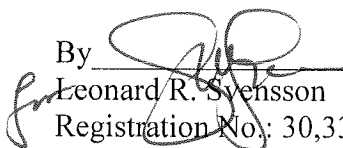
Application No. 10/705,195  
Amendment dated September 3, 2009  
Office Action of June 5, 2009

Docket No.: 0147-0253P

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: September 3, 2009

Respectfully submitted,

By  #47,604  
Leonard R. Svensson  
Registration No.: 30,330  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
12770 High Bluff Drive  
Suite 260  
San Diego, California 92130  
(858) 792-8855  
Attorney for Applicant